

United States District Court
Central District of California

BROKEN DRUM BAR, INC. et al.

Plaintiffs,

v.

SITE CENTERS CORP. et al.

Defendants.

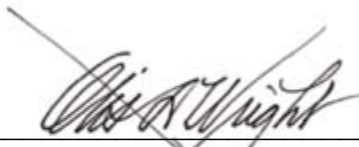
Case № 2:19-cv-01445-ODW (SKx)

**ORDER DENYING MOTION TO
DISMISS AS MOOT [9]**

1 Defendants served Plaintiffs with a Federal Rule of Civil Procedure 12(b)(6)
2 motion to dismiss in this case on March 11, 2019. (ECF No. 9.) On March 27, 2019,
3 Plaintiffs filed a first amended Complaint—sixteen days after Defendants filed their
4 responsive pleading. (ECF No. 12.) Federal Rule of Civil Procedure 15(a)(1) allows
5 Plaintiffs to file an amended complaint once as a matter of course within twenty-one
6 days of service with a Rule 12(b) motion. Therefore, Plaintiffs’ amended complaint
7 was proper. As the pending motion to dismiss was based on a complaint that is no
8 longer operative, the motion is **DENIED** as **MOOT**. *See Ramirez v. Cty. of San*
9 *Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015).

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11 **IT IS SO ORDERED.**

12 March 28, 2019

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15 **OTIS D. WRIGHT, II**
16 **UNITED STATES DISTRICT JUDGE**
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